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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,825	12/11/2000	Kulvir S. Bhogal	AUS920000207US1	5525

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EXAMINER

DUONG, THOMAS

ART UNIT	PAPER NUMBER
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2145

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/734,825

Applicant(s)

BHOGAL ET AL.

Examiner

Thomas Duong

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-14, 16, 21-22 and 26-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-14, 16, 21-22 and 26-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Amendment*

1. This office action is in response to the amendment filed on July 7, 2004. The amendment filed on July 7, 2004 has been entered and made of record. The original application contained *claims 1-29*. In the amendment filed on July 7, 2004, the Applicants canceled *claims 1, 15, 17-20, 23-25 and 28-29* and amended *claims 2-5, 11-13, 21 and 26*. There are *no claims* allowed. Hence, *claims 2-14, 16, 21-22 and 26-27* are presented for further consideration and examination.

### *Response to Argument*

2. The Applicants' arguments with respect to *claims 13, 21 and 26* have been considered but are moot in view of the new grounds of rejection.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:  
  
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. *Claims 2-14, 16, 21-22 and 26-27* are rejected under 35 U.S.C. 103 as being unpatentable over Jardin et al. (US006766354B1) and in view of Barrick, Jr. et al. (US006006260A).

5. With regard to claim 13, Jardin reference discloses,

- *upon a browser event, issuing a request (SYN packet 305) to a benchmarking server (client interface device 110);* (Jardin, col.2, lines 12-16; col.2, line 65 – col.3, line 5; module 305, fig.3; Jardin discloses a method optimized to deliver the requested content to the client from a content server based on the measured connection speed of the client by separate server)
- *in response to said request, returning given data (SYN/ACK packet 310) from the benchmarking server to the browser;* (Jardin, col.2, lines 12-16; col.3, lines 5-10; module 310, fig.3; Jardin discloses a method optimized to deliver the requested content to the client from a content server based on the measured connection speed of the client by separate server)
- *using said proven data to calculate connection speed data;* (Jardin, col.2, lines 12-16; col.3, lines 10-17; Jardin discloses a method optimized to deliver the requested content to the client from a content server based on the measured connection speed of the client by separate server)
- *in response to receiving said connection speed data in said client request, returning a given page conforming to the connection speed data by the server.* (Jardin, col.2, lines 35-64; col.3, lines 35-59; Jardin discloses a method optimized to deliver the requested content to the client from a content server based on the measured connection speed of the client by separate server. Jardin discloses a step of connecting the client with the appropriate content server optimized for the client based on its connection speed and delivering the requested content to the client)

However, Jardin reference does not explicitly disclose,

- *passing said connection speed data in a client request to a server; and*

Barrick, Jr. teaches,

- *passing said connection speed data in a client request to a server; and* (Barrick, col.2, lines 29-35, lines 47-53; col.7, lines 46-67; fig.4A; fig.6; Barrick teaches of sending "a HTTP GET request [which] contains a performance parameter indicative of the measured download time interval" (col.2, lines 31-32) and connection performance or speed)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the Barrick reference with Jardin reference to "allow web designers to take advantage of the proliferation of high bandwidth connections to the Internet by creating more content rich websites" (Jardin, col.1, lines 41-43) while still able to deliver the lesser content webpages to clients with low bandwidth connections. Furthermore, this optimizes the delivering of requested content to the client from a content server based on the measured connection speed of the client by separate server. In other words, the client's connection speed is taken into consideration when the appropriate server is responding with the content optimized for that particular connection.

6. With regard to claims 2-5, 12 and 16, Jardin and Barrick references disclose the invention substantially as claimed,

See *claim 13* rejection as detailed above.

Furthermore, Barrick reference discloses,

- *wherein the connection speed data is passed in a header of the client request.*  
(Barrick, col.7, lines 46-67; col.8, line 62 – col.9, line 23; fig.4A; fig.5-7)

- *wherein the given data includes a test file.* (Barrick, col.7, lines 46-67; col.8, line 62 – col.9, line 23; fig.4A; fig.5-7)
- *further including defining a variable to be given the value of the connection speed.* (Barrick, col.7, lines 46-67; col.8, line 62 – col.9, line 23; fig.4A; fig.5-7)

7. With regard to claims 6-10, Jardin and Barrick references disclose the invention substantially as claimed,

See *claim 5* rejection as detailed above.

Furthermore, Barrick reference discloses,

- *further including generating a start time stamp of when the given data is sent.* (Barrick, col.7, lines 46-67; col.8, line 62 – col.9, line 23; fig.4A; fig.5-7)
- *wherein the start and end time stamps are used to calculate connection speed data.* (Barrick, col.7, lines 46-67; col.8, line 62 – col.9, line 23; fig.4A; fig.5-7)

8. With regard to claim 11, Jardin and Barrick references disclose the invention substantially as claimed,

See *claim 13* rejection as detailed above.

Furthermore, Barrick reference discloses,

- *further including calculating the test file size at the browser after returning the given data from the benchmarking server to the browser.* (Barrick, col.7, lines 46-67; col.8, line 62 – col.9, line 23; fig.4A; fig.5-7)

9. With regard to claim 14, Jardin and Barrick references disclose the invention substantially as claimed,

See *claim 13* rejection as detailed above.

Furthermore, Barrick reference discloses,

- *wherein the connection speed data is passed in a cookie associated with a client request.* (Barrick, col.7, lines 46-67; col.8, line 62 – col.9, line 23; fig.4A; fig.5-7)

10. With regard to claims 21-22 and 26-27, Jardin reference discloses,

- *code responsive to finding connection speed data for selecting and sending an appropriate web page to the browser; and* (Jardin, col.2, lines 35-64; col.3, lines 35-59; Jardin discloses a method optimized to deliver the requested content to the client from a content server based on the measured connection speed of the client by separate server. Jardin discloses a step of connecting the client with the appropriate content server optimized for the client based on its connection speed and delivering the requested content to the client)
- *code responsive to an absence of connection speed data for redirecting the browser to a benchmarking server.* (Jardin, col.2, lines 35-64; col.3, lines 35-59; Jardin discloses a method optimized to deliver the requested content to the client from a content server based on the measured connection speed of the client by separate server. Jardin discloses a step of connecting the client with the appropriate content server optimized for the client based on its connection speed and delivering the requested content to the client)

However, Jardin reference does not explicitly disclose,

- *code for parsing a client request from a browser for connection speed data;*

Barrick, Jr. teaches,

- *code for parsing a client request from a browser for connection speed data;*  
(Barrick, col.2, lines 29-35, lines 47-53; col.7, lines 46-67; fig.4A; fig.6; Barrick teaches of sending “a HTTP GET request [which] contains a performance parameter indicative of the measured download time interval” (col.2, lines 31-32)

and connection performance or speed. When the connection speed is passed to the server in the request, the server connects the client with the appropriate content server best suited for the connection speed of the client)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the Barrick reference with Jardin reference to "allow web designers to take advantage of the proliferation of high bandwidth connections to the Internet by creating more content rich websites" (Jardin, col.1, lines 41-43) while still able to deliver the lesser content webpages to clients with low bandwidth connections. Furthermore, this optimizes the delivering of requested content to the client from a content server based on the measured connection speed of the client by separate server. In other words, the client's connection speed is taken into consideration when the appropriate server is responding with the content optimized for that particular connection.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the



advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Duong whose telephone number is 703/305-1886 or 571/272-3911 (after 11/01/2004). The examiner can normally be reached on M-F 7:30AM - 4:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703/308-5221 or 571/272-3923 (after 11/01/2004). The fax phone numbers for the organization where this application or proceeding is assigned are 703/872-9306 for regular communications and 703/872-9306 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/305-3900 or 571/272-2100 (after 11/01/2004).

*Thomas Duong (AU2143)*

*October 13, 2004*

*William C. Vaughn, Jr.*  
*Primary Examiner*  
*Art Unit 2143*  
*William C. Vaughn, Jr.*